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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/760,268      01/21/2004      Kia Silverbrook      RRA28US      3000

24011      7590      11/15/2005

SILVERBROOK RESEARCH PTY LTD  
393 DARLING STREET  
BALMAIN, 2041  
AUSTRALIA

EXAMINER

VO, ANH T N

ART UNIT      PAPER NUMBER

2861

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/760,268

Applicant(s)

SILVERBROOK, KIA

Examiner

Anh T.N. Vo

Art Unit

2861

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/8/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

Acknowledgement is made of the receipt of Preliminary Amendment filed 14 July 2005.

### ***Information Disclosure Statement***

The references cited on PTO 1449 have been considered.

### ***Double patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of application number 10/760,195. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim a printing fluid dispenser comprising:

- a deformable container;

- an outlet;
- a handle;
- a resilient member;
- a membrane;
- a spring; and
- a platform.

This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***CLAIM REJECTIONS***

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-2, 4-7, 9 and 13 are rejected under 35 USC 102 (e) as being anticipated Shyn et al. (US Pat. 6,568,801).

Shyn et al. disclose in Figure 2A an ink cartridge comprising:

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- an ink reservoir (2, 212) having an ink outlet (an unmarked hole is formed at a bottom of the cartridge 2 close by an element 25);
- means (23) for applying pressure to said ink reservoir (2,212) in order to force ink through the outlet;
- means (22) for limiting the pressure of said ink forced through the outlet to a predetermined level;
- wherein the means (22) for limiting pressure comprises a means for limiting applied pressure to said ink reservoir;
- wherein the means (23) for applying pressure comprises a handle;
- wherein the means (22, 212) for limiting applied pressure to said ink reservoir includes a resilient member (22) having deformation characteristics selected to limit said pressure to a predetermined level;
- wherein the resilient member (22) is located between the ink reservoir and the means for applying pressure (23) to the ink reservoir (2, 212);
- wherein the resilient member (22) comprises a spring; and
- wherein in use the dispenser is coupled to an external reservoir (25) and said ink forced through the outlet is delivered to said external reservoir.

Claims 1-13 are rejected under 35 USC 102 (b) as being anticipated by (US Pat. 3,950,761).

Kashio discloses in Figures 1-2 an ink pressurizing apparatus for an ink jet recorder comprising:

- an ink reservoir (1) having an ink outlet (6);
- means (11, 13, 14) for applying pressure to said ink reservoir (1) in order to force ink through the outlet (6);
- means (16) for limiting the pressure of said ink forced through the outlet to a predetermined level;
- wherein the means (16) for limiting pressure comprises a means for limiting applied pressure to said ink reservoir;

- wherein the ink reservoir (1) comprises a deformable membrane (10).
- wherein the means (11, 13, 14) for applying pressure comprises a handle (13);
- wherein the means (16) for limiting applied pressure to said ink reservoir includes a resilient member having deformation characteristics selected to limit said pressure to a predetermined level.
- wherein the resilient member (16) is located between the ink reservoir (1) and the means (11, 13, 14) for applying pressure to the ink reservoir (1);
- wherein the resilient member (16) comprises a spring.
- wherein the reservoir (1) and the spring (16) are located within a portion of the handle (13).
- wherein in use the dispenser is coupled to an external reservoir (a chamber of the element 7 does not shown) and said ink forced through the outlet (6) is delivered to said external reservoir.
- wherein said external reservoir is provided in a removable inkjet cartridge (1) and the predetermined pressure level relates to the pressure required to rupture said external reservoir;
- a deformable container (1) of printing fluid having an outlet (6);
- a handle (11, 13, 14) arranged to apply pressure to said container (1) in order to force ink through the outlet (6);
- a resilient member (16) arranged to limit pressure applied to the deformable container (1) by the handle (11, 13, 14) in order to prevent rupture of an external reservoir (7) coupled to a dispenser in use;
- wherein the deformable container (1) comprises a membrane (10); and
- wherein the resilient member (16) comprises a spring.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior arts are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 USC 103 (a) as being unpatentable over Kashio (US Pat. 3,950,761) in view of Inoue et al. (US Pat. 6,773,099).

US Pat. No. 3,950,761 discloses the basic features of the claimed invention were stated above but does not disclose the spring includes a platform arranged to abut the membrane of the ink reservoir.

Inoue et al. disclose in Figure 40 an ink cartridge comprising the spring (544, 545) includes a platform (544) arranged to abut the membrane (541) of the ink reservoir (540).

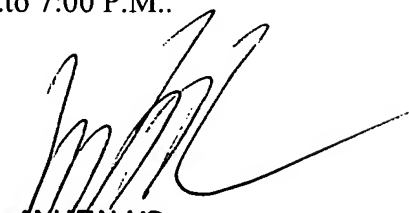
It would have been obvious at the time the invention was made to a person having ordinary skill in the art to incorporate the teaching of Inoue et al. in the Kashio ink jet recorder for the purpose of supporting and protecting a moveable membrane of an ink container.

***Citation of Pertinent Prior Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references (US Pat. 4,253,103; US Pat. 5,359,356; US Pat. 6,010,211; US Pat. 6,250,751; US Pat. 6,739,712) cited in the PTO 892 form show an ink cartridge that is deemed to be relevant to the present invention. These references should be reviewed.

***CONCLUSION***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Anh Vo whose telephone number is (571) 272-2262. The examiner can normally be reached on Tuesday to Friday from 9:00 A.M. to 7:00 P.M.. The fax number of this Group 2861 is (571) 273-8300.

  
ANH T. N. VO  
PRIMARY EXAMINER

11/10/2010